

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
International Business Reply Service Contracts 1
(MC2009-14)Negotiated Service Agreement

Docket No. CP2012-5

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF FILING AN ADDITIONAL
INTERNATIONAL BUSINESS REPLY SERVICE CONTRACT 1
NEGOTIATED SERVICE AGREEMENT

(December 28, 2011)

The Public Representative hereby provides comments pursuant to Order No. 1060.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's notice of filing contingency prices pursuant to an outstanding International Business Reply Service (IBRS) competitive contract.² Prices and classifications "not of general applicability" for IBRS contracts were previously established by Governors' Decision No. 08-24.³ In Order No. 178, the Commission added the International Businesses Reply Service Competitive Contract 1 product to the competitive product list.⁴

The IBRS contingency prices that are the subject of this proceeding result from a surviving term of a contract that expired on March 31, 2008. Notice at 2. Previously, the Postal Service filed two notices of changes in contingency prices pursuant to the

¹ PRC Order No. 1060, Notice and Order Concerning International Business Reply Service Contracts 1, Negotiated Service Agreement, December 20, 2011.

² Notice of United States Postal Service of Prices under Functionally Equivalent International Business Reply Service Competitive Contract 1 Negotiated Service Agreement, December 15, 2011 (Notice).

³ See Request of the United States Postal Service to Add International Business Reply Service Contracts to the Competitive Products List, and Notice of Filing (Under Seal) Contract and Enabling Governors' Decision, Docket Nos. MC2009-14 and CP2009-20, December 24, 2008.

⁴ See PRC Order No. 178, Order Concerning International Business Reply Service Contract 1 Negotiated Service Agreement, Docket Nos. MC2009-14 and CP2009-20, February 5, 2009.

expired contract: one for calendar year 2010 and the other for calendar year 2011. *Id.* In separate proceedings, the Commission subsequently approved the addition of these two contingency price arrangements to the International Businesses Reply Service Competitive Contract 1 product.⁵

In this proceeding, the Postal Service requests that the Commission add the proposed contingency price arrangement to the IBRS Competitive Contract 1 product based on its functional equivalence to the IBRS contracts in Docket Nos. CP2009-20 and CP2009-22. *Id.* at 6. The contingency prices are applicable to calendar year 2012 postage for merchandise and other articles returned to a U.S.-based entity in postage-prepaid IBRS packaging by overseas customers. *Id.* at 1.

COMMENTS

The Public Representative has reviewed the contingency prices and supporting financial model filed under seal that accompanies the Postal Service's Notice. Based upon that review, the Public Representative concludes that the proposed contingency price arrangement is functionally equivalent to the previously approved arrangements. In addition, it appears the contingency prices should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

Functional Equivalence. The Postal Service asserts that the "contingency arrangement is essentially identical to those envisioned in the contracts the Commission included in the IBRS Competitive Contract 1 product in Docket Nos. CP2009-20 and CP2009-22, albeit with minor procedural variations due to different negotiation outcomes." Notice at 5. Moreover, the Postal Service maintains that "the nature of the IBRS service provided in all three contracts is essentially the same, and the instant IBRS contingency arrangement bears similar market characteristics to the two other IBRS Competitive Contract 1 agreements." *Id.* at 5-6. The Public Representative agrees and concludes that the instant contingency price arrangement is functionally

⁵ See PRC Order No. 377, Order Concerning Change in Prices for International Business Reply Service Contract 1 Negotiated Service Agreement, Docket No. CP2010-17, December 30, 2009; *see also* PRC Order No. 629, Order Concerning Contingency Prices for International Business Reply Service Competitive Contract 1 Docket No. CP2011-43, December 29, 2010.

equivalent to those previously approved by the Commission in Docket Nos. CP2009-20 and CP2009-22.

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial model filed under seal with the Postal Service's Notice, it appears the contingency prices should generate sufficient revenues to cover costs and thereby satisfy the requirements of section 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

James F. Callow
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6839
callowjf@prc.gov